REMARKS

Claims 1-20 are currently pending. Reconsideration and allowance of the pending claims is respectfully requested in light of the following remarks.

Double Patenting Rejections

Claims 1-9 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Chen et al. (U.S. Patent No 6,668,241, hereinafter referred to as "'241") in view of Husseiny (U.S. Patent no. 5,210,704, hereinafter referred to as "Husseiny").

Claims 10-12 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 7 and 9 of '241.

In response, Applicants respectfully request that the Examiner hold in abeyance any requirement that Applicants' submit a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) until such time as one or more claims are indicated as being otherwise allowable.

Rejections under 35 U.S.C. §103

Claims 1, 2, and 13-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kekic et al. (U.S. Patent No. 5,999,179, hereinafter referred to as "Kekic") in view of Husseiny.

Claims 3 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kekic in view of Husseiny, as applied to claim 1, and further in view of Pisello et al. (U.S. Patent No. 5,678,042, hereinafter referred to as "Pisello").

Claims 4 and 6-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kekic in view of Husseiny and Bergholm et al. (U.S. Patent No. 5,761,432, hereinafter "Bergholm").

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kekic in view of Husseiny and Bergholm, as applied to claim 4, and further in view of Pisello.

Claims 10-12, 16, 17, 19, and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kekic in view of Husseiny and Pisello.

Applicants respectfully traverse the subject rejection on the grounds that the cited references are defective in establishing a prima facie case of obviousness with respect to the pending claims.

As the PTO recognizes in MPEP § 2142:

> *The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness. . . .*

It is submitted that, in the present case, the Examiner has not factually supported a prima facie case of obviousness for at least the following, mutually exclusive, reasons.

1. Even When Combined, the References Do Not Teach the Claimed Subject Matter

The Kekic and Husseiny patents cannot be applied to reject independent claim 1 under 35 U.S.C. §103 because, even when combined, the references do not teach the claimed subject matter.

In particular, the cited references fail to teach or suggest at least the following elements as recited in independent claim 1:

> *a program for creating one or more analytical reports about the monitor set based on the rules and the data, wherein the one or more analytical reports include a prediction of exhaustion of the equipment, wherein the program includes:*
>
> > *an inference engine having instructions for . . . firing the rule on the data to produce an analysis and to create the one or more analytical reports.*

Applicants respectfully traverse the Examiner's position that Kekic teaches "a program for creating one or more analytical reports," as recited in claim 1. In the "Response to Arguments" set forth on page 20 *et seq.* of the final Office action , the Examiner posits that, giving the claim its broadest reasonable interpretation, the Kekic reference teaches this limitation. Applicants respectfully disagree.

As defined by Merriam-Webster's Online Dictionary, a "report" is "a usually detailed account or statement." This definition is entirely consistent with Applicants' use of the term "report" throughout the application.

As the foregoing clearly indicates, the "logging of pertinent information" or provision of "visual clues" in Kekic does not rise to the level of an "analytical report" as that phrase is used throughout the specification and within claim 1.

Husseiny fails to remedy the deficiencies of Kekic in this regard. Additionally, Applicants maintain their position that Husseiny, which is cited by the Examiner as teaching "an analytical report which includes a prediction of exhaustion of the equipment," fails to do so for the reasons set forth in the Amendment filed March 10, 2006. Applicants submit that the Examiner's response to this argument do not establish Husseiny's teaching of the concept of an analytical report that includes a prediction of equipment failure as asserted by the Examiner. In view of this and the fact that Husseiny fails to remedy the deficiencies of Kekic, as described above, it is apparent that, even when combined, the references do not teach the subject matter as claimed in independent claim 1; therefore, the subject rejection thereof should be withdrawn.

The Kekic, Husseiny, and Bergholm patents cannot be applied to reject independent claim 4 under 35 U.S.C. §103 because, even when combined, the references do not teach the claimed subject matter. In particular, the cited references fail to teach or suggest at least the following elements as recited in independent claim 4:

> *defining a review for the selected configuration, the review identifying one or more rules usable to calculate exhaustion of the equipment;*

and

> *receiving a comparison of the data and the review.*

Applicants respectfully traverse the Examiner's position that Kekic teaches defining a review for the selected configuration identifying one or more rules, as recited in claim 4. On the contrary, at most the sections of Kekic cited by the Examiner disclose defining general rules to be applied by the system upon the occurrence of certain conditions. Applicants submit that this is not equivalent to defining a review for a selected configuration, wherein the review identifies one or more rules.

As used in the application, while a "review" identifies one or more rules, a "review for a selected configuration" identifies, in addition to one or more rules, one or more pieces of equipment and various parameters for the equipment. In contrast, Kekic does not disclose defining a "review"; rather, it merely discloses defining a plurality of rules.

Husseiny, which is cited by the Examiner as teaching a rule-based monitoring expert system including at least one rule usable to calculate exhaustion of the equipment, and Bergholm, which is cited by the Examiner as teaching step of and means for obtaining equipment related data using a separate inventory system, fail to remedy the deficiencies of Kekic in this regard for the reasons previously set forth. Accordingly, it is apparent that, even when combined, the references do not teach the subject matter as claimed in independent claim 4; therefore, the subject rejection thereof should be withdrawn.

Finally, the Kekic, Husseiny, and Pisello patents cannot be applied to reject independent claim 10 under 35 U.S.C. §103 because, even when combined, the references do not teach the claimed subject matter. In particular, the cited references fail to teach or suggest at least the following element as recited in independent claim 10:

> *a program for creating one or more analytical reports about the monitor set based on the rules and the data, wherein at least one of the analytical reports details a relationship between demand and capacity for at least a portion of the equipment.*

Applicants respectfully traverse the Examiner's position that Kekic teaches a program for creating one or more analytical reports for the reasons set forth in detail above with respect to claim 1.

Husseiny, which is cited by the Examiner as teaching a rule-based monitoring expert system, wherein at least one rule enables a prediction of equipment exhaustion, and Pisello, which is cited by the Examiner as teaching a program for creating one or more analytical reports about a monitor set, wherein at least one of the analytical reports details a relationship between demand and capacity for at least a portion of the equipment, fail to remedy the deficiencies of Kekic in this regard. Accordingly, it is apparent that, even when combined, the references do not teach the subject matter as claimed in independent claim 10; therefore, the subject rejection thereof should be withdrawn.

Thus, at least the foregoing reasons, the Examiner's burden of factually supporting a *prima facie* case of obviousness with respect to the pending claims has clearly not been met, and the rejection under U.S.C. §103 should be withdrawn.

2. The Combination of References is Improper

Applicants maintain their position that the Kekic and Husseiny patents cannot be applied to reject independent claim 1 under 35 U.S.C. § 103, the Kekic, Husseiny, and Bergholm patents cannot be applied to reject independent claim 4 under 35 U.S.C. §103, and the Kekic, Husseiny, and Pisello patents cannot be applied to reject independent claim 10 under 35 U.S.C. §103 because each of the combinations is improper for the reasons set forth in detail in the response filed March 10, 2006.

Conclusion

It is clear from the foregoing that claims 1, 4, and 10 are in condition for allowance. Claims 2-3, 5-9, and 11-20 depend from independent claims 1, 4, and 10 and are therefore also deemed to be in condition for allowance.

An early formal notice of allowance of claims 1-20 is therefore respectfully requested.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this Fee(s) Transmittal is being transmitted via EFS-Web to the United States Patent and Trademark Office, on the date indicated below.

Date: June 27, 2006

Debbie Ludwig
Signature of person transmitting paper

Debbie Ludwig
Printed name of person transmitting paper